Senate Unit To Act on Nixon Files

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By Carl Bernstein
and Bob Woodward
Washington Post Staff Writers

The chief counsel of the Senate Watergate committee accused the White House yesterday of refusing to cooperate with the committee's investigation and said the committee will probably vote today on whether to subpoena documents that President Nixon has declined to turn over to the panel.

Referring to the White House refusal to supply the documents, chief counsel Samuel Dash told reporters: "Obviously we've reached a point where they've decided it's not appropriate to cooperate."

Dash's comments came amid reports from both White House and committee sources that they expect the current round of Senate hearings to end next month without resolving the question of President Nixon's role in the Watergate affair.

According to Senate sources, the difficulty in understanding what role Mr. Nixon may have played has been compounded by his refusal to appear before the committee or to supply White House documents formally sought by the committee.

Senate sources said it is virtually certain that the committee will vote to subpoena the White House documents, thus setting the stage for a possible constitutional struggle between Mr. Nixon and the Congress.

In a letter to the Senate committee released Sunday, the President declined either to testify before the committee or to supply White House papers, adding that it was his obligation "to defend the office of the presidency against encroachment by other branches."

Dash said the committee staff has prepared a memorandum of law on the question of whether it has au-

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thority to subpoena the documents and that the memo will be presented to members of the committee for probable action during an executive session this morning.

Although the counsel refused to disclose the contents of the memorandum, committee sources said it argues that there is clear authority to subpoena all White House papers relevant to the Watergate investigation and recommends that the Senate committee vote to compel the President to surrender them to the panel.

In a brief meeting with reporters late yesterday, Dash said the question of obtaining testimony from the President will probably be discussed at a future committee meeting, after the issue of access to White House records is resolved.

If the committee votes to subpoena White House papers and Mr. Nixon refuses to turn them over, the issue presumably would have to be resolved in the courts.

Dash said yesterday that "the important issue now is getting papers essential to the investigation," adding that "we will consider the President's refusal to testify at another time."

The counsel also said the committee will issue an interim report following completion of the current phase of hearings, which deals solely with the Watergate bugging and the subsequent cover-up by the White House.

Although Dash declined to discuss what such a report might contain, committee sources said it would undoubtedly discuss any role of the President in the Watergate affair and what possible action — if any — may be warranted against Mr. Nixon.

According to Senate sources, such a report dealing with the President will reflect the committee's expected failure to clearly resolve the question of Mr. Nixon's role in Watergate.

The next 10 former high administration officials scheduled to testify will "both confirm much of (former White House counsel) John Dean's testimony and refute much of it," according to one White House source. "But the net result will be a cloud of ambiguity."

One Senate committee Republican source said: "From what we have of preliminary testimony—and that is a good amount—the question of the President's guilt will lean in his favor but still be very much up in the air."

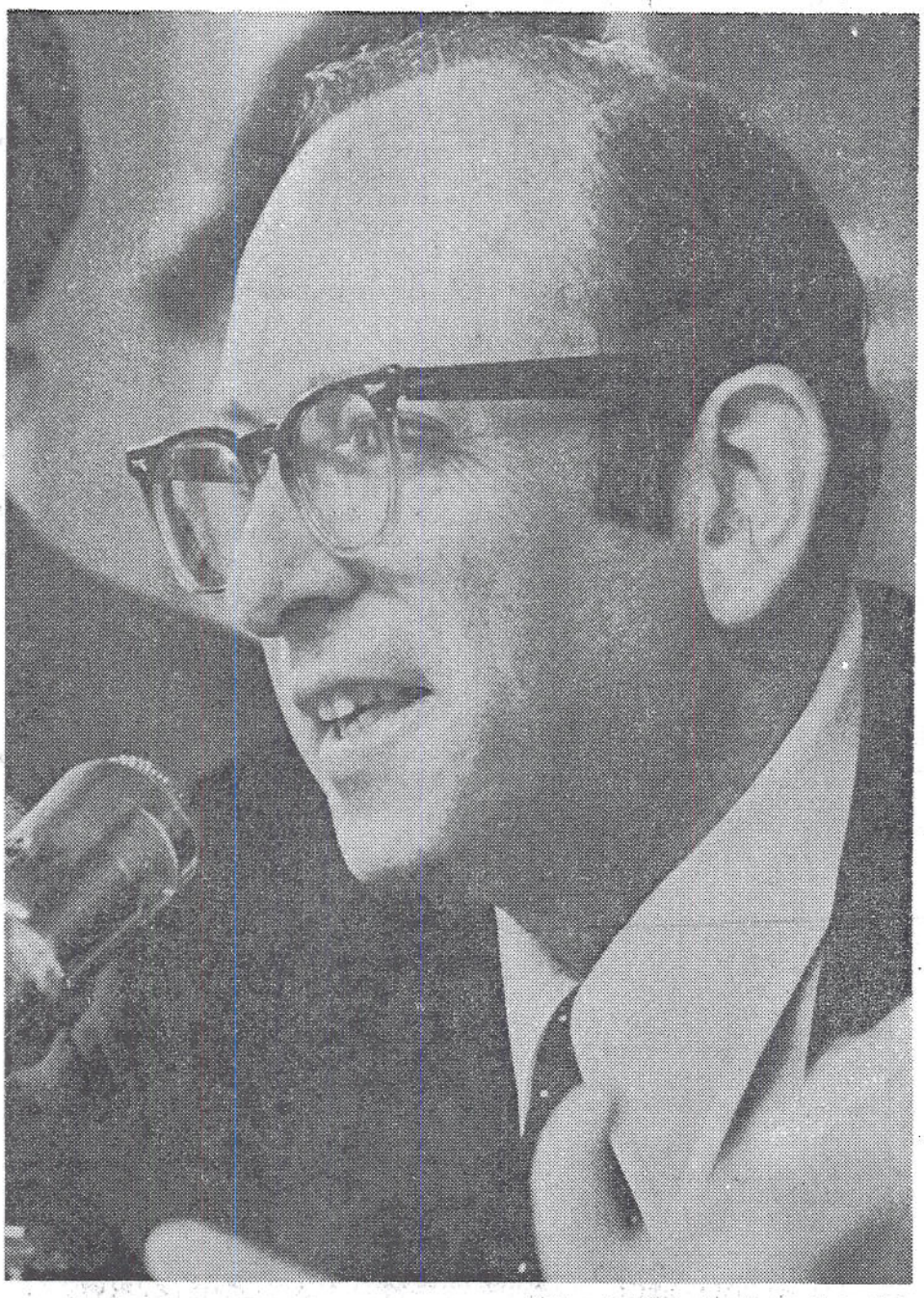
In a week of sworn testimony last month; Dean charged that the President was aware of the Watergate cover-up as early as last September.

Former top presidential aides H.R. (Bob) Haldeman and John D. Ehrlichman will testify to the contrary, according to the sources, but in the course of testimony by other witnesses the two aides will be so heavily implicated in the Watergate cover-up that their credibility will be severely damaged.

"We expect there will be no more direct charges against the President," said a second White House source, thus "stabilizing his legal position," and virtually ruling out an impeachment proceeding in the view of this source.

The source said the testimony will still leave the President in a difficult political position, particularly in regard to restoring public confidence in his administration.

Specifically, both Senate and White House sources said they expect former CIA officials and former acting FBI Director L. Patrick Gray III to give testimony showing that the President was not overly eager to have the Watergate investigation pushed, though the President gave lip service to the concept of a full investigation.



By James K. W. Atherton—The Washington Post

Committee counsel Samuel Dash questions former Attorney General John N. Mitchell.

For example, Gray has told investigators that on Feb. 15, when he met with the President, Mr. Nixon voiced concern about FBI leaks to the news media rather than the substance of the investigation.

Gray reportedly quoted the President as saying: "Pat, you're not exercising the same leadership as (former FBI Director J. Edgar) Hoover. You're not ruthless enough in getting polygraphs (lie detector tests) to stop these leaks. Get tougher."

Gray will also testify, according to the sources, that during a conversation with the President last summer several weeks after the Watergate arrests, the President did not seem very concerend about Gray's warning that the action of some presidential aides might "wound" Mr. Nixon.

In addition, the sources said that the testimony of former presidential special counsel Charles W. Colson, one of Mr. Nixon's strongest defenders, may not help the President's position.

Colson has said publicly and is expected to testify under oath that he personally warned the President in January that there might be White House involvement in the Watergate operation.

This was three months before the President has said he opened a new White House investigation into the matter. Colson has said that the President was unable to get the facts from his aides, particularly from Dean.

Richard A. Moore, a special White House counsel and possible Watergate witness, is expected to confirm Dean's testimony about an early February meeting in which top White House aides, including Haldeman, planned to set up road blocks in the Senate Watergate investigation.

However, the sources said that Moore will dispute Dean's testimony that Moore contacted former Attorney General John N. Mitchell about the payoffs of money to the Watergate defendants.

Moore, the sources said, will also testify that he has no knowledge that President Nixon knew of the cover-up prior to March 21, when Mr. Nixon has said he initiated his own Watergate probe.

White House and Senate sources said this week that they are uncertain about some important details of expected testimony from former White House aides Gordon Strachan and Egil Krogh Jr.

Stracham, a former political aide to Haldeman, is expected to testify that Haldeman knew of the Watergate bugging plans and the subsequent cover-up, according reliable sources. None of the sources in the White House or Senate contacted in the last week had any idea about what Strachan might have to say about the President, however.

Krogh, a former aide to Ehrlichman, has said that the orders for the 1971 burglary of the office of Daniel Ellsberg's psychiatrist came directly from the "Oval Office," the main office of the President, according to Dean's sworn public testimony before the Senate Watergate committee.

It could not be learned whether Krogh will confirm or dispute Dean's testimony on this crucial point.